

AMENDED IN ASSEMBLY MAY 16, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1074

Introduced by Assembly Member Fuentes

February 18, 2011

An act to add Section 1714.55 to the Civil Code, relating to personal liability.

LEGISLATIVE COUNSEL'S DIGEST

AB 1074, as amended, Fuentes. Personal liability immunity: ~~telecommunication~~ *telecommunications* service providers.

Existing law provides that a telecommunications service provider is generally liable for any claim, damage, or loss caused by their conduct.

This bill would provide that a provider of ~~telecommunication~~ *telecommunications* service, or other service, that is involved in providing 9-1-1 service, as defined, is not liable for any *civil* claim, damage, or loss caused by an act or omission of the company, and other individuals, in the design, development, maintenance, or provision of 9-1-1 service, unless the act or omission that proximately caused the claim, damage, or loss constituted gross negligence, ~~recklessness~~ *wanton or willful misconduct*, or intentional misconduct.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1714.55 is added to the Civil Code,
- 2 immediately following 1714.5, to read:

1 1714.55. (a) A retail or wholesale service provider of
2 telecommunications service, or other service, involved in providing
3 9-1-1 service, shall not be liable for any *civil* claim, damage, or
4 loss caused by an act or omission ~~of the company, business, or~~
5 ~~individual~~ in the design, development, installation, maintenance,
6 or provision of 9-1-1 service, unless the act or omission that
7 proximately caused the claim, damage, or loss constituted gross
8 negligence, ~~recklessness~~ *wanton or willful misconduct*, or
9 intentional misconduct.

10 (b) For purposes of this section:

11 (1) “Public safety agency” ~~is means a public safety agency as~~
12 defined in accordance with the Warren-911-Emergency Assistance
13 Act (Article 6 (commencing with Section 53100) of Chapter 1 of
14 Part 1 of Division 2 of Title 5 of the Government Code).

15 (2) ~~“9-1-1 service” means a system involved in either connecting~~
16 ~~users to a public safety agency, or in providing data, including,~~
17 ~~but not limited to, the location of the user, to a public safety agency.~~

18 (c) ~~This section shall not be construed to modify service tariff~~
19 ~~provisions.~~

20 (2) “9-1-1 service” *means a telecommunications service, or*
21 *other wireline or wireless service, that provides to the user of the*
22 *public telephone system the ability to reach a public safety agency*
23 *by utilizing the digits 9-1-1 or otherwise facilitates the provision*
24 *of emergency services pursuant to the Warren-911-Emergency*
25 *Assistance Act (Article 6 (commencing with Section 53100) of*
26 *Chapter 1 of Part 1 of Division 2 of Title 5 of the Government*
27 *Code). “9-1-1 service” includes a 9-1-1 service that utilizes in*
28 *whole or in part an Internet Protocol.*

29 (c) *This section shall not apply to services provided under tariff.*

30 SEC. 2. *The Legislature finds and declares that the general*
31 *public increasingly relies on wireless telephones for their primary*
32 *means of communication, and that more 9-1-1 calls are now placed*
33 *on wireless telephones than on traditional landline telephones.*
34 *People expect to be able to call for help using the technology that*
35 *they use for their everyday communications. Next Generation 9-1-1*
36 *(NG 9-1-1), which utilizes Internet Protocol-based communication*
37 *technology, will improve a 9-1-1 operator’s ability to locate a*
38 *wireless caller who cannot speak or give their location, and make*
39 *possible future applications that will allow emergency responders*
40 *to receive text messages, real-time images of the site of an*

1 *emergency before they arrive on the scene, telemetric data from*
2 *crash sensors in automobiles even when the injured occupants*
3 *cannot call 9-1-1, and a wealth of other data that can save lives,*
4 *including their own. NG 9-1-1 involves service providers beyond*
5 *the traditional landline telephone companies that have provided*
6 *9-1-1 service for decades. The Federal Communication*
7 *Commission has an open proceeding to adopt the rapid adoption*
8 *of NG 9-1-1 by the states. It is the intent of the Legislature that*
9 *state law should be amended to encourage qualified service*
10 *providers beyond traditional landline telephone companies to*
11 *develop NG 9-1-1 services, and that California should lead the*
12 *nation in the deployment of NG 9-1-1.*

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